

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Anthony Newton,

Plaintiff

v.

T. Akkad, et al.,

Defendants

Case No.: 2:20-cv-01402-JAD-EJY

**Order re: Motion for Summary Judgment**

Plaintiff Anthony Newton brings this civil-rights action under 42 U.S.C. § 1983 for violations of the Fourth and Fourteenth Amendments by corrections officer Talal Akkad. On November 22, 2022, Akkad filed a motion for summary judgment on all claims.<sup>1</sup> The certificate of service attached to that motion reflects that it was served on Newton by mail,<sup>2</sup> and the court issued a separate notice to Newton that advised him of the effect of the filing of such a dispositive motion and his deadline to respond.<sup>3</sup> Four days later, Newton dispatched to the court a “response” to that notice in which he asks whether a dispositive motion has been filed and explains that he no longer has help with his case and doesn’t know or understand how to respond to such a motion.<sup>4</sup>

The court hereby confirms that such a motion was, in fact filed,<sup>5</sup> and Newton’s deadline to respond to it passed on December 13, 2022. I liberally construe Newton’s voiced concerns

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<sup>1</sup> ECF No. 42.

<sup>2</sup> *Id.* at 25.

<sup>3</sup> ECF No. 43

<sup>4</sup> ECF No. 46.

<sup>5</sup> ECF No. 42.

1 about his inability to pursue his claims and respond to dispositive motions as a motion to appoint  
 2 counsel to assist him. Unfortunately, indigent, civil-rights litigants like Newton do not have a  
 3 constitutional right to appointed counsel.<sup>6</sup> Instead, these requests are governed by 28 U.S.C.  
 4 § 1915(e)(1), which allows the court to “request an attorney to represent any person unable to  
 5 afford counsel.” Courts do so only in “exceptional circumstances.”<sup>7</sup> “When determining  
 6 whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of success on  
 7 the merits as well as the ability of the [plaintiff] to articulate his claims pro se in light of the  
 8 complexity of the legal issues involved.’”<sup>8</sup> “Neither of these considerations is dispositive and  
 9 instead must be viewed together.”<sup>9</sup> Because Newton’s education and experience level are not  
 10 uncommon for pro se prisoner litigants, and his claims are not particularly complex, I do not find  
 11 exceptional circumstances that warrant the appointment of counsel for him in this case. So I  
 12 deny his tacit request for appointment of counsel at this time.

13 But because it appears that Newton was waiting for some response from this court before  
 14 filing a proper response to the defendant’s motion for summary judgment, I find that such an  
 15 expectation is good cause for a reasonable extension of the deadline for him to respond to the  
 16 pending motion for summary judgment. So I sua sponte grant an extension for response.

17 IT IS THEREFORE ORDERED that **Plaintiff Anthony Newton’s deadline to respond**  
 18 **to Defendant Talal Akkad’s motion for summary judgment, filed on November 22, 2022,**  
 19 **[ECF No. 42] is EXTENDED to January 17, 2023.** Newton thus has until January 17, 2023, to

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21 <sup>6</sup> *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981).

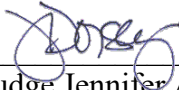
22 <sup>7</sup> *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action).

23 <sup>8</sup> *Id.*

<sup>9</sup> *Id.*

1 file a proper, substantive response to the motion for summary judgment. If he did not receive a  
2 copy of that motion for summary judgment, he must notify the court in writing immediately.

3 Dated: December 15, 2022

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6 U.S. District Judge Jennifer A. Dorsey  
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